IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 9909 OF 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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VINUBHAI GANDABHAI PATEL - Petitioner(s)
Versus
STATE OF GUJARAT & ORS. - Respondent(s)

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Appearance :
Shri Dhirendra Mehta for Petitioner(s).
Shri Dipen Desai, Assistant Government Pleader for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 02/05/2007

ORAL JUDGMENT

The short facts necessary for disposal of the present Writ Application are that the Mamlatdar-cum-Agricultural Lands Tribunal

(Agriculture Ceiling), Choryasi, Surat, *vide* his order dated 24th December, 1993, held that the petitioner was entitled to 36 Acres of land and as 1 Acre - 28 Gunthas of land was surplus and separation of the same would lead to fragmentation, the land was not required to be acquired by the State Government. He, accordingly, dropped the proceedings. However, the Deputy Collector, *vide* his order dated 30th October, 1995 passed in Ceiling/Section-37/Revi./97/94, held that the said land could not be left in the area of the petitioner, but, was required to be acquired. The said order was challenged by the petitioner before the Gujarat Revenue Tribunal in Revision Application No. TENB.B.S.56/96, but, the Tribunal was pleased to dismiss the said revision application on 8th October, 1999. Being aggrieved by the said order, the petitioner is before this Court.

2. Shri Dhirendra Mehta, learned Counsel for the petitioner, submits that the learned Deputy Collector did not afford appropriate opportunity to the petitioner to make representation of his cause and case, the said authority did not appreciate the true facts and did not properly appreciate Section 18 of the Gujarat Agricultural Lands Ceiling Act, 1960, the order deserves to be quashed.

3. The State Government has opposed the Writ Application.

4. From the order dated 8th October, 1999 passed by the learned Gujarat Revenue Tribunal, it would appear that only one argument in support of the Revision Application was raised by the present petitioner and the ground was that the present petitioner was not afforded an opportunity of hearing.

5. From paragraph-4 of the order passed by the learned

Gujarat Revenue Tribunal, it does not appear that any other argument on merits was raised. It would be trite to say that the order passed by any authority, officer, judicial officer or any officer exercising *quasi judicial* powers would be final and would also be taken to be final in relation to the arguments and submissions recorded in the said order. If anybody is aggrieved by any mistake committed on factual aspects or non-consideration of the ground by the said authority/officer, then, such person has to file an application before the same officer that he has raised a particular objection, but, the same does not find place in the order and has also not been considered. In absence of such an application or review application, the facts/contents/details mentioned in the order would be taken to be correct. Under the circumstances, I must hold that except the question of due opportunity of hearing, no other ground was pressed into service at the time of hearing. So far as providing appropriate opportunity for hearing is concerned, from paragraph 6, it would clearly appear that the Deputy Collector, on two occasions, had sent registered notices to the petitioner to appear and defend his case, but, on each of the occasions, the petitioner refused to receive the notice. These facts recorded in paragraph 6 of the order clinch the issue. The concerned authority is not supposed to run after or chase the noticee, catch hold of him and read the contents of the notice and compel him to sign the acknowledgment. The authority is required to issue the notice and if such notice is not received or is not accepted or is refused by the noticee, then, that would be end of the matter.

6. Under the circumstances, I do not find any reason to hold that appropriate opportunity of hearing was not given or no notice was issued to the petitioner.

7. The petition deserves to and is, accordingly, dismissed. Rule

is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

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